

As Amended by House Committee

Session of 2023

HOUSE BILL No. 2024

By Joint Committee on Child Welfare System Oversight

1-12

AN ACT concerning children and minors; relating to the newborn infant protection act; allowing the surrender of physical custody of an infant to ~~an infant refuge bassinets~~ **a newborn safety device; requiring inquiries and reporting of Indian child status**; amending K.S.A. **38-2203 and 38-2282** and repealing the existing ~~section~~ sections.

Be it enacted by the Legislature of the State of Kansas:

{Section 1. K.S.A. 38-2203 is hereby amended to read as follows:
38-2203. (a) Proceedings concerning any child who may be a child in need of care shall be governed by this code, except in those instances when the court knows or has reason to know that an Indian child is involved in the proceeding, in which case, the Indian child welfare act of 1978, 25 U.S.C. § 1901 et seq., applies. The Indian child welfare act may apply to: The filing to initiate a child in need of care proceeding, K.S.A. 38-2234, and amendments thereto; ex parte custody orders, K.S.A. 38-2242, and amendments thereto; temporary custody hearing, K.S.A. 38-2243, and amendments thereto; adjudication, K.S.A. 38-2247, and amendments thereto; burden of proof, K.S.A. 38-2250, and amendments thereto; disposition, K.S.A. 38-2255, and amendments thereto; permanency hearings, K.S.A. 38-2264, and amendments thereto; termination of parental rights, K.S.A. 38-2267, 38-2268 and 38-2269, and amendments thereto; establishment of permanent custodianship, K.S.A. 38-2268 and 38-2272, and amendments thereto; the newborn infant protection act, K.S.A. 38-2282, and amendments thereto; the placement of a child in any foster, pre-adoptive and adoptive home and the placement of a child in a guardianship arrangement under article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto.

(b) Subject to the uniform child custody jurisdiction and enforcement act, K.S.A. 2022 Supp. 23-37,101 through 23-37,405, and amendments thereto, the district court shall have original jurisdiction of proceedings pursuant to this code.

(c) The court acquires jurisdiction over a child by the filing of a petition pursuant to this code or upon issuance of an ex parte order pursuant to K.S.A. 38-2242, and amendments thereto. When the court acquires jurisdiction over a child in need of care, jurisdiction may

1 continue until the child has: (1) Become 18 years of age, or until June
2 1 of the school year during which the child became 18 years of age if
3 the child is still attending high school unless there is no court
4 approved transition plan, in which event jurisdiction may continue
5 until a transition plan is approved by the court or until the child
6 reaches the age of 21; (2) been adopted; or (3) been discharged by the
7 court. Any child 18 years of age or over may request, in writing to the
8 court, that the jurisdiction of the court cease. The court shall give
9 notice of the request to all parties and interested parties and 30 days
10 after receipt of the request, jurisdiction will cease.

11 (d) When it is no longer appropriate for the court to exercise
12 jurisdiction over a child, the court, upon its own motion or the motion
13 of a party or interested party at a hearing or upon agreement of all
14 parties or interested parties, shall enter an order discharging the child.
15 Except upon request of the child pursuant to subsection (c), the court
16 shall not enter an order discharging a child until June 1 of the school
17 year during which the child becomes 18 years of age if the child is in
18 an out-of-home placement, is still attending high school and has not
19 completed the child's high school education.

20 (e) When a petition is filed under this code, a person who is
21 alleged to be under 18 years of age shall be presumed to be under that
22 age for the purposes of this code, unless the contrary is proved.

23 (f) A court's order issued in a proceeding pursuant to this code,
24 shall take precedence over such orders in a civil custody case, a
25 proceeding under article 31 of chapter 60 of the Kansas Statutes
26 Annotated, and amendments thereto, protection from abuse act, or a
27 comparable case in another jurisdiction, except as provided by K.S.A.
28 2022 Supp. 23-37,101 through 23-37,405, and amendments thereto,
29 uniform child custody jurisdiction and enforcement act.}

30 ~~Section 1.~~ Sec. 2. K.S.A. 38-2282 is hereby amended to read as
31 follows: 38-2282. (a) This section shall be known and may be cited as the
32 newborn infant protection act. The purpose of this section is to protect
33 newborn children from injury and death caused by abandonment by a
34 parent; and to provide safe and secure alternatives to such abandonment.
35 This section shall not abridge the rights or obligations created by the
36 Indian child welfare act of 1978, 25 U.S.C. § 1901 et seq.

37 (b) As used in this section:

38 (1) "Newborn safety device" means a container designed to safely
39 accept delivery of an infant and that is:

40 (A) Voluntarily installed in a facility described in subsection (c)(1)
41 (A) that is staffed 24 hours per day by an employee of such facility or
42 has a dual alarm system that will dispatch first responders when all
43 employees of the facility are unavailable;

1 (B) located on a structural wall in an area that is conspicuous and
2 visible to employees of the facility described in subsection (c)(1)(A);

3 (C) equipped with an automatic lock that would restrict access to
4 the device from the outside of the facility described in subsection (c)(1)
5 (A) when an infant is placed inside the device;

6 (D) equipped with a temperature control; and

7 (E) equipped with an alarm system described in subsection (c)(3)
8 that is triggered by an infant being placed inside the device;

9 (2) "non-relinquishing parent" means the biological parent of an
10 infant who does not leave surrender the infant with any person listed in
11 subsection (e) in accordance with this section; and

12 (2)(3) "relinquishing parent" means the biological parent or person
13 having legal custody of an infant who leaves surrenders the infant with
14 any person listed in subsection (e) in accordance with this section.

15 (3) ~~"Infant refuge bassinet" means a device or container designed to~~
16 ~~safely accept delivery of an infant and that is:~~

17 (A) ~~Installed in a facility described in subsection (c)(1)(A) that is~~
18 ~~staffed 24 hours per day by an employee of such facility;~~

19 (B) ~~located in an area that is conspicuous and visible to employees of~~
20 ~~the facility described in subsection (c)(1)(A);~~

21 (C) ~~equipped with an automatic lock that would restrict access to the~~
22 ~~bassinet from the outside of the facility described in subsection (c)(1)(A)~~
23 ~~when an infant is placed inside the bassinet;~~

24 (D) ~~equipped with a temperature control; and~~

25 (E) ~~equipped with an alarm system described in subsection (c)(3) that~~
26 ~~is triggered by an infant being placed inside the bassinet.~~

27 (c) (1) A person purporting to be an infant's parent or other person
28 having lawful custody of an infant who is 60 days old or younger and who
29 has not suffered bodily harm may surrender physical custody of the infant
30 to ~~any~~ either:

31 (A) An employee who is on duty at a police station, sheriff's office,
32 law enforcement center, fire station, city or county health department or
33 medical care facility as defined by K.S.A. 65-425, and amendments
34 thereto. Such employee shall, without a court order, take physical custody
35 of an infant surrendered pursuant to this section; or

36 (B) ~~an infant refuge bassinet~~ a newborn safety device installed at
37 a facility described in subparagraph (A). An employee of such facility
38 shall, without a court order, take physical custody of an infant surrendered
39 pursuant to this section.

40 (2) A relinquishing parent voluntarily surrendering an infant under
41 this subsection shall not be required to reveal personally identifiable
42 information, but may be offered the opportunity to provide information
43 concerning the infant's familial or medical history or information

1 **described in subsection (k).**

2 (3) *A facility described in this subsection that installs ~~an infant refuge~~*
3 *~~bassinet~~ a newborn safety device shall install a dual alarm system*
4 *connected to the physical location of the ~~bassinet~~ device. Such dual alarm*
5 *system shall be tested at least once per week and visually checked at least*
6 *twice per day to ensure such alarm is in working order.*

7 (d) ~~Any~~An employee of a facility described in subsection ~~(e)~~ (c)(1)
8 (A) to whom an infant is delivered pursuant to this section shall not reveal
9 the name or other personally identifiable information of the person who
10 delivered the infant unless there is a reasonable suspicion that the infant
11 has been abused or neglected **or such information is required pursuant**
12 **to subsection (k)**, and such facility and its employees shall be immune
13 from administrative, civil or criminal liability for any action taken
14 pursuant to this subsection. Such immunity shall not extend to any acts or
15 omissions, including negligent or intentional acts or omissions, occurring
16 after the acceptance of the infant.

17 (e) If an infant is delivered pursuant to this section to ~~any~~ a facility
18 described in subsection ~~(e)~~ (c)(1)(A) that is not a medical care facility, the
19 employee of such facility who takes physical custody of the infant shall
20 arrange for the immediate transportation of the infant to the nearest
21 medical care facility as defined by K.S.A. 65-425, and amendments
22 thereto. The medical care facility, its employees, agents and medical staff
23 shall perform treatment in accordance with the prevailing standard of care
24 as necessary to protect the physical health and safety of the infant and shall
25 be immune from administrative, civil and criminal liability for treatment
26 performed consistent with such standard.

27 (f) As soon as possible after an employee of ~~any~~ a facility described
28 in subsection ~~(e)~~ (c)(1)(A) takes physical custody of an infant without a
29 court order pursuant to this section, such ~~person~~ employee shall notify a
30 local law enforcement agency that the ~~person~~ employee has taken physical
31 custody of an infant pursuant to this section. Upon receipt of such notice a
32 law enforcement officer from such law enforcement agency shall take
33 custody of the infant as an abandoned infant. The law enforcement agency
34 shall deliver the infant to a facility or person designated by the secretary
35 pursuant to K.S.A. 38-2232, and amendments thereto.

36 (g) Any person, city or county or agency thereof or medical care
37 facility taking physical custody of an infant surrendered pursuant to this
38 section shall perform any act necessary to protect the physical health or
39 safety of the infant, and shall be immune from liability for any injury to
40 the infant that may result therefrom.

41 (h) (1) A relinquishing parent shall be immune from civil or criminal
42 liability for action taken pursuant to this section only if:

43 (A) The relinquishing parent voluntarily delivered the infant safely to

1 *either:*

2 (i) The physical custody of an employee at a facility described in
3 subsection—~~(e) (c)(1)(A)~~; or

4 (ii)—~~an infant refuge bassinet~~ **a newborn safety device installed at**
5 **a facility described in subsection (c)(1)(B);**

6 (B) the infant was ~~no~~ **not** more than 60 days old when delivered by
7 the relinquishing parent to ~~the physical custody of an employee at a~~
8 facility described in subsection—~~(e) (c)(1)(A)~~; and

9 (C) the infant was not abused or neglected by the relinquishing parent
10 prior to such delivery.

11 (2) The relinquishing parent's voluntary delivery of an infant in
12 accordance with this section shall constitute the parent's implied consent to
13 the adoption of such infant and a voluntary relinquishment of such parent's
14 parental rights.

15 (i) (1) In any termination of parental rights proceeding initiated after
16 the relinquishment of an infant pursuant to this section, the state shall
17 publish notice pursuant to chapter 60 of the Kansas Statutes Annotated,
18 and amendments thereto, that an infant has been relinquished, including
19 the sex of the infant and the date and location of such relinquishment.
20 Within 30 days after publication of such notice, a non-relinquishing parent
21 seeking to establish parental rights shall notify the court where the
22 termination of parental rights proceeding is filed and state such parent's
23 intentions regarding the infant. The court shall initiate proceedings to
24 establish parentage if no person notifies the court within 30 days. **When**
25 **such person is seeking to establish parental rights, the court shall**
26 **require the person, at the person's expense, to submit to a genetic test**
27 **to verify that the person is the biological parent of the child.** There
28 shall be an examination of the putative father registry to determine
29 whether attempts have previously been made to preserve parental rights to
30 the infant. If such attempts have been made, the state shall make
31 reasonable efforts to provide notice of the abandonment of the infant to
32 such putative father.

33 (2) If a relinquishing parent of an infant relinquishes custody of the
34 infant in accordance with this section, to preserve the parental rights of the
35 non-relinquishing parent, the non-relinquishing parent shall take the steps
36 necessary to establish parentage within 30 days after the published notice
37 or specific notice provided in paragraph (1).

38 (3) If a non-relinquishing parent fails to take the steps necessary to
39 establish parentage within the 30-day period specified in paragraph (2), the
40 non-relinquishing parent may have all of such parent's rights terminated
41 with respect to the child.

42 (4) If a non-relinquishing parent inquires at a facility described in
43 subsection—~~(e) (c)(1)(A)~~ regarding an infant whose custody was

1 relinquished pursuant to this section, such facility shall refer the non-
2 relinquishing parent to the Kansas department for children and families
3 and the court exercising jurisdiction over the child.

4 (j) Upon request, all medical records of the infant shall be made
5 available to the Kansas department for children and families and given to
6 the person awarded custody of such infant. The medical facility providing
7 such records shall be immune from liability for such *release of* records
8 *release*.

9 **(k) An employee of a facility described in subsection (c)(1)(A)**
10 **shall ask the person surrendering an infant whether such infant or**
11 **either biological parent is a member of or eligible for membership in a**
12 **federally recognized Indian tribe and the identity of any such tribe or**
13 **tribes. Any facility maintaining a newborn safety device shall provide**
14 **the means for the person surrendering an infant to indicate whether**
15 **such infant or either biological parent is a member of or eligible for**
16 **membership in a federally recognized tribe or tribes. An employee of a**
17 **facility taking custody of an infant pursuant to section (c)(1) shall**
18 **provide to the secretary all information received pursuant to this**
19 **subsection. The secretary shall provide such information to the court**
20 **with jurisdiction over the infant.**

21 ~~Sec. 2: 3. K.S.A. 38-2203 and 38-2282~~ **is** hereby repealed.

22 ~~Sec. 3: 4.~~ This act shall take effect and be in force from and after its
23 publication in the statute book.